

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

**No. 504**

---

**Introduced by Assembly Member Gonzalez**

February 23, 2015

---

An act to add Section 65108 to the Government Code, relating to land use.

### LEGISLATIVE COUNSEL'S DIGEST

AB 504, as amended, Gonzalez. Local planning.

The Planning and Zoning Law, among other things, establishes in each city or county a planning agency and requires each city or county to, by ordinance, assign the functions of the planning agency to a planning department, one or more planning commissions, administrative bodies or hearing officers, the legislative body itself, or any combination thereof, as it deems appropriate and necessary. The law requires, if a city or county does not make an assignment, as specified, the legislative body of the city or county to carry out all the functions of the planning agency. The law specifies the functions of a planning agency and the minimum membership of a planning commission to be at least 5 members who act in the public interest.

This bill would, notwithstanding any other law, authorize a city to delegate to, or authorize pursuant to a contract with, a nonprofit public benefit corporation the performance of ~~administrative or ministerial~~ planning functions ~~and powers, as defined~~, and require that the city retain all ~~nonadministrative or nonministerial~~ planning functions. The bill would require a nonprofit public benefit corporation performing

~~administrative or ministerial planning functions and powers~~ to comply with city laws and plans and state laws, including, but not limited to, laws relating to the requirements for open meetings and the disclosure of public records, as specified. The bill would require any planning action taken by a nonprofit public benefit corporation to be able to be appealed to the legislative body of the city. The bill would require a nonprofit public benefit corporation, beginning on or before July 1, 2016, and annually thereafter, to report to the legislative body of the city on the planning functions it has undertaken in the previous calendar year, and require the legislative body of the city to review and approve each report at a noticed public hearing. The bill would also state that this is an issue of statewide concern.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65108 is added to the Government Code,  
2 to read:

3 65108. (a) Notwithstanding any other law, a city may delegate  
4 to, or authorize pursuant to a contract with, a nonprofit public  
5 benefit corporation organized under the Nonprofit Public Benefit  
6 Corporation Law (Part 2 (commencing with Section 5110) of  
7 Division 2 of Title 2 of the Corporations Code) the performance  
8 of ~~administrative or ministerial planning functions and powers.~~  
9 *functions*. A city shall retain all ~~nonadministrative or nonministerial~~  
10 planning functions.

11 (b) (1) A nonprofit public benefit corporation performing  
12 ~~administrative or ministerial planning functions and powers~~ shall  
13 comply with the city's charter, contracting rules, municipal code,  
14 ordinances, and any other applicable parts of a general plan,  
15 community plan, specific plan or other plan, and all applicable  
16 local and state laws, including, but not limited to, the California  
17 Public Records Act (Chapter 3.5 (commencing with Section 6250)  
18 of Division 7 of Title 5, *I*), and the Ralph M. Brown Act (Chapter  
19 9 (commencing with Section 54950) of Part 1 of Division 2 of  
20 Title 5).

21 (2) Any planning action taken by a nonprofit public benefit  
22 corporation shall be able to be appealed to the legislative body of  
23 the city.

(c) (1) On or before July 1, 2016, and annually thereafter for as long as the planning functions~~and powers~~ continue to be delegated or an authorizing contract is in effect pursuant to subdivision (a), a nonprofit public benefit corporation shall report to the legislative body of the city on the planning functions it has undertaken in the previous calendar year that includes, but is not limited to, a detailed description of each planning function and an explanation of how it is consistent with the city's charter, municipal code, ordinances, and any applicable parts of a general plan, community plan, specific plan or other plan, and all applicable local and state laws.

(2) Each report shall be reviewed and approved by the legislative body of the city at a noticed public hearing.

(d) *For purposes of this section, the following definitions shall apply:*

(1) *"Ministerial" means a plain and mandatory duty involving the execution of a set task that is to be performed without the exercise of discretion.*

(2) *"Planning functions" include, but are not limited to, enactment of a zoning regulation, amendment of a general plan, specific plan, and all other planning documents, issuance of a tentative map, development permit, planned development permit, site development permit, use permit, conditional use permit, coastal development permit, and a variance or any other land use permit, design review approval, determination of consistency with a general plan, specific plan, and all other applicable planning documents, imposition of conditions of approval and mitigation measures, adoption of findings pursuant to the California Environmental Quality Act (CEQA)(Division 13 (commencing with Section 21000) of the Public Resources Code), certification of an environmental impact report pursuant to CEQA, approval of a negative declaration or mitigated negative declaration pursuant to CEQA, determination that a project is not subject to CEQA, adoption of a statement of overriding considerations pursuant to CEQA, adoption of a mitigation monitoring and reporting program pursuant to CEQA, and any other actions or determinations made pursuant to CEQA.*

SEC. 2. The Legislature hereby finds and declares that maintaining uniformity in the planning responsibilities of cities within this state, including charter cities, has a direct impact on

1 the well-being of all residents of this state. Therefore, the  
2 Legislature finds and declares that authorizing a city to delegate  
3 to, or authorize pursuant to a contract with, a nonprofit public  
4 benefit corporation the performance of ~~administrative or ministerial~~  
5 ~~planning functions and powers~~ *responsibilities* within the State of  
6 California, is an issue of statewide concern and not a municipal  
7 affair, as that term is used in Section 5 of Article XI of the  
8 California Constitution. Therefore, this act shall apply to every  
9 city in this state, including a charter city and charter city and  
10 county.

O